



DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Form ETA-9142A, H-2A Application for Temporary Employment Certification, and Appendix A (OMB Control Number 1205-0466), Revision.

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department or DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the collection of data on the Form ETA-9142A, H-2A Application for Temporary Employment Certification, and Appendix A (OMB Control Number 1205-0466), which expire on March 31, 2016. A copy of the proposed information collection request can be obtained free of charge by contacting the office listed below in the addressee section of this notice.

The forms are used by employers in the H-2A temporary agricultural employment-based program to collect information that demonstrates compliance with program requirements.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit written comments to Brian Pasternak, National Director of Temporary Programs, Office of Foreign Labor Certification, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue, Box 12-200 NW, Washington, DC 20210; Telephone: (202) 513-7350 (this is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD). Fax: 202-513-7495. E-mail: ETA.OFLC.Forms@dol.gov subject line: ETA-9141A. A copy of the proposed information collection request (ICR) can be obtained free of charge by contacting the office listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The information collection (IC) is required by sections 101(a)(15)(H)(ii)(a); 214(c); and 218 of the Immigration and Nationality Act (INA) (8 U.S.C. 1011(a)(15)(H)(ii)(a), 1184(c), and 1188) and 8 CFR 214.2(h). Before an employer may petition for any temporary foreign workers, it must submit a request for certification to the Secretary of

Labor containing the elements prescribed by the INA and the Department's implementing regulations, which differ depending on the visa program under which the foreign workers are sought. The H-2A program enables employers to bring nonimmigrant foreign workers to the U.S. to perform agricultural work of a temporary or seasonal nature as defined in 8 U.S.C. 1101(a)(15)(H)(ii)(a). For purposes of the H-2A program, the INA and governing federal regulations require the Secretary of Labor to certify, among other things, that any foreign worker seeking to enter the United States (U.S.) temporarily for the purpose of performing certain unskilled labor will not, by doing so, adversely affect wages and working conditions of U.S. workers similarly employed. The Secretary must also certify that there are not sufficient U.S. workers available to perform such labor. (8 CFR 214.2(h)(5)(i)(A), (iii)(A).)

The information contained in the Form ETA-9142A is the basis for the Secretary's determination that no U.S. workers are available. The Form ETA-9142A, H-2A Application for Temporary Employment Certification, is used to collect information to permit the Department to meet its statutory responsibilities for administering the H-2A temporary labor certification program. The Appendix A lists all of the attestations required by employers in the H-2A program. The proposed amendment to the Appendix A will allow employers who file electronically to submit a copy of a signed Appendix A with their electronically filed Form ETA-9142A and, upon receipt of the original certified Form ETA-9142A, to complete the footer on the original Appendix A with the information contained on the approved application. Employers must retain the original

Appendix A and file a copy of the signed Appendix A, together with the original certified Form ETA-9142A, with Department of Homeland Security's U.S. Citizenship and Immigration Services.

Lastly, the Department is proposing revisions to Appendix A to reflect the requirements of 20 CFR 655.200-235, which are the new regulatory requirements for H-2A employers who are in the sheep and goat herding and range production of livestock occupations.

II. Review Focus

DOL is particularly interested in comments that:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions:

Type of Review: Extension with revision.

Title: H-2A Foreign Labor Certification.

OMB Number: 1205-0466.

Affected Public: Farms, Private Sector–businesses or other for profits and not-for-profit institutions, Federal Government, and State, Local and Tribal Governments.

Form(s): Form ETA-9142A, H-2A Application for Temporary Employment Certification, and Appendix A.

Total Annual Respondents: 4,870.

Annual Frequency: On occasion.

Total Annual Responses: 160,773.

Average Time per Response: 20 Minutes.

Estimated Total Annual Burden Hours: 49,194

Total Annual Burden Cost for Respondents: \$1,608,700.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record. Commenters are encouraged not to submit sensitive information (e.g., confidential business information or personally identifiable information such as a social security number).

SIGNED:

Portia Wu,

Assistant Secretary for Employment and Training, Labor.

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